IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

CRIMINAL APPLICATION NO.886 OF 2006

The State of Maharashtra ... Applicant
(Orig. Complainant)

Vs.

Sahil Hitesh Zaveri ... Respondent
(Orig. Accused)

Mr. A.S.Shitole, APP, for the Applicant-State.

CORAM: S.K.SHAH,J.

DATE : 25th April,2006.

P.C.

1. Against the acquittal, the prosecution is seeking leave to file an appeal against the order. The prosecution was under the provisions of Sctions 279, 338 of the I.P.C. and under Section 134(a)(b) r/w 177 of the Motor Vehicles Act.

2. I have gone through the judgment of the trial Court and considered the evidence of witnesses including the injured P.W.2. There is no dispute that P.W.2 was injured as a result of dash between him and the vehicle driven by the accused. The case of the

prosecution is that the accused was driving the vehicle and dashed P.W.2. The defence of the accused is that P.W.2 was crossing the road. He blew horn as a result of which P.W.2 was confused and started running here and there. The Investigating Officer drew the spot panchnama and the sketch of the place of incident. It is admitted that the car of the injured was parked in a no parking zone. There were improvements made by the witnesses. It was stated that the complainant was sitting inside the car as alleged by the prosecution. The prosecution has taken up a theory that complainant was sitting inside the car which is not proved by the prosecution. There is substance in the defence. The learned Magistrate has rightly accepted the same.

3. Under the circumstances, I do not find any merit in the Application. The Application seeking leave to file appeal is hereby rejected.

(S.K.SHAH,J.)